

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MARK DEARMAN, ET AL
Plaintiff

CIVIL ACTION NO. 05-11177-DPW

v.

THE GILLETTE CO.,
Defendant

KEVIN WINDOM
Plaintiff

CIVIL ACTION NO. 05-11207-DPW

v.

THE GILLETTE CO.,
Defendant

JAVIER TUNON
Plaintiff

CIVIL ACTION NO. 05-11208-DPW

v.

THE GILLETTE CO.,
Defendant

KRISTOPHER KENESSKY
Plaintiff

CIVIL ACTION NO. 05-11272-DPW

v.

THE GILLETTE CO.,
Defendant

COLLIN MCGEARY

Plaintiff

CIVIL ACTION NO. 05-11319-DPW

v.

THE GILLETTE CO.,

Defendant

BRANDY SAUNDERS

Plaintiff

CIVIL ACTION NO. 05-11425-DPW

v.

THE GILLETTE CO.,

Defendant

MARCELL JOHNSON

Plaintiff

CIVIL ACTION NO. 05-11455-DPW

v.

THE GILLETTE CO.,

Defendant

DAVID ATKINS

Plaintiff

CIVIL ACTION NO. 05-12192-DPW

v.

THE GILLETTE CO.,

Defendant

MARK ADKISON

Plaintiff

CIVIL ACTION NO. 05-12331-DPW

v.

THE GILLETTE CO.,

Defendant

CARLOS CORRALES

Plaintiff

CIVIL ACTION NO. 05-12332-DPW

v.

THE GILLETTE CO.,

Defendant

DAVID LIPPER

Plaintiff

CIVIL ACTION NO. 05-12333-DPW

v.

THE GILLETTE CO.,

Defendant

MATTHEW MARR

Plaintiff

CIVIL ACTION NO. 05-12334-DPW

v.

THE GILLETTE CO.,

Defendant

L. DEAN SMITH

Plaintiff

CIVIL ACTION NO. 05-12335-DPW

v.

THE GILLETTE CO.,

Defendant

KASEM ADOURE

Plaintiff

CIVIL ACTION NO. 05-12336-DPW

v.

THE GILLETTE CO.,

Defendant

MICHAEL PRUITT

Plaintiff

CIVIL ACTION NO. 05-12365-DPW

v.

THE GILLETTE CO.,

Defendant

LUIS GONZALEZ

Plaintiff

CIVIL ACTION NO. 05-12366-DPW

v.

THE GILLETTE CO.,

Defendant

LISA GEIS

Plaintiff

CIVIL ACTION NO. 05-12367-DPW

v.

THE GILLETTE CO.,

Defendant

GREG BESINGER

Plaintiff

CIVIL ACTION NO. 05-12368-DPW

v.

THE GILLETTE CO.,

Defendant

EVAN ROSENTHAL

Plaintiff

CIVIL ACTION NO. 05-12369-DPW

v.

THE GILLETTE CO.,

Defendant

ELVIS HUSKIC

Plaintiff

CIVIL ACTION NO. 05-12370-DPW

v.

THE GILLETTE CO.,

Defendant

PATRICK COLEMAN

Plaintiff

CIVIL ACTION NO. 05-12374-DPW

v.

THE GILLETTE CO.,

Defendant

ROBERT FALKNER

Plaintiff

CIVIL ACTION NO. 05-12375-DPW

v.

THE GILLETTE CO.,

Defendant

STEVE MCGLYNN

Plaintiff

CIVIL ACTION NO. 05-12376-DPW

v.

THE GILLETTE CO.,

Defendant

HOLLY MOORE

Plaintiff

CIVIL ACTION NO. 05-12377-DPW

v.

THE GILLETTE CO.,

Defendant

TRACY GOREA

Plaintiff

CIVIL ACTION NO. 05-12378-DPW

v.

THE GILLETTE CO.,

Defendant

GRANT JACKSON

Plaintiff

CIVIL ACTION NO. 05-12379-DPW

v.

THE GILLETTE CO.,

Defendant

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re:)	
M3POWER RAZOR SYSTEM)	CIVIL ACTION NO. 05-11177
MARKETING & SALES PRACTICES)	(Lead Case)
LITIGATION)	
)	MDL Docket No. 1704

**JOINT SCHEDULING REPORT AND JOINT DISCOVERY PLAN
PURSUANT TO FED.R.CIV.P. 16(b) AND 26(f), AND LOCAL RULE 16.1**

The undersigned Plaintiffs, on their own behalf and putatively on behalf of persons similarly situated, and Defendant, The Gillette Company (“Gillette”), pursuant to this Court’s December 1, 2005 Order, and Local Rule 16.1, file this Joint Scheduling Report and Joint Discovery Plan addressing discovery and other pretrial issues.

I. REPORT OF THE PARTIES’ CONFERENCE PURSUANT TO FED.R.CIV.P. 26(f).

a. Nature and basis of the Parties’ claims and defenses:

Plaintiffs filed their respective actions against Defendant arising from Defendant’s purportedly deceptive marketing and sale of its M3Power Razor System. Defendant denies all of Plaintiffs’ claims and asserts that it has not violated any laws in relation to its marketing and sale of the M3Power Razor System.

b. Agenda for Scheduling Conference.

- 1. Submission of Rule 23 (g) applications.** Plaintiffs' counsel will file their Rule 23(g) applications prior to the Scheduling Conference.

2. **Prospects for Early Settlement.** The Parties have engaged in preliminary settlement discussions.
3. **Use of Local Rule 16.4 Alternative Dispute Resolution Programs.** The Parties have not agreed on the use of Local Rule 16.4 Alternative Dispute Resolution Programs.
4. **Motions to Remand.** All Motions to Remand shall be filed by no later than February 23, 2006, and Defendant shall have 30 days to respond.
5. **Consolidation.** The Parties agree that all the actions referenced in the caption of the Court's Notice of Scheduling Conference, Order for Joint Statement and Certifications, and Order for Electronic Filing, dated December 1, 2005, should be consolidated.
6. **Non-MDL Parallel Cases.** The Parties note the existence of two additional putative class actions raising similar claims against Gillette filed in the Superior Court of Bergen County in the State of New Jersey, namely, *Vereb v. The Gillette Company*, BER-L-1091-05, and *Delre v. The Gillette Company*, BER-L-1077-05. The actions were previously removed to federal court, remanded to state court as not removed on a timely basis, and are presently subject to final entry of an order dismissing them without prejudice for ineffective service of process.

II. PROPOSED PRE-TRIAL SCHEDULE.

a. Consolidated Complaint.

1. **Filing of Consolidated Complaint.** Plaintiffs will file their Consolidated

Complaint within 30 days of the Court's determination of Interim Class Counsel pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

2. **Response to the Consolidated Complaint.** Defendant will file its responsive pleading to the Consolidated Complaint within 30 days of its filing.

b. Pre-Trial Discovery.

1. **Arrangement for the disclosures required by Fed.R.Civ.P. 26(a)(1).**

The Parties hereby stipulate and agree that the initial disclosures and exchanges set forth in Fed.R.Civ.P. 26(a)(1) shall be made within 10 days after filing of the Consolidated Complaint.

2. **Class Certification Discovery.** This phase of discovery will be completed no later than 60 days after service of the initial Rule 26 disclosures.

3. **Fact Discovery.** This phase of discovery will be completed no later than six months from the date of initial disclosures as described in Paragraph II(b)(1) above.

4. **Expert Discovery.**

(a) Plaintiffs' Expert Reports shall be served within 45 days of the close of fact discovery.

(b) Defendant's Expert Reports shall be served within 45 days thereafter.

(c) Rebuttal Reports from either party shall be served within 21 days after Defendant serves its Expert Reports.

(d) Expert Discovery concludes 45 after the date rebuttal reports are due.

c. Class Certification Briefing.

1. Plaintiffs' Motion for Class Certification shall be filed no later than thirty (30) days after the close of class certification discovery.
2. Defendant's response shall be due within forty-five (45) days of the date Plaintiffs' motion is filed.
3. Plaintiffs shall file their reply brief within thirty (30) days of Defendant's response.

d. Dispositive Motions

1. Motions for Summary Judgment shall be filed within thirty (30) days after the close of Expert Discovery.
2. A party opposing any motion for summary judgment shall have forty-five (45) days to file an opposition to said motion.
3. Any reply brief shall be due within twenty (20) days after the filing of the response.

e. Final Pretrial Conference.

The parties agree that a final pre-trial conference and trial date shall be determined by the Court.

III. MISCELLANEOUS

1. The Parties agree that each attorney acting as counsel for any party who is a member in good standing of the bar of the highest court of any State or of any United States District Court may be deemed admitted *pro hac vice* before the Court, without further action, in connection with these proceedings upon payment of the appropriate filing fee and the filing of a Notice of Appearance.

2. All counsel are required to apply for, effectuate and maintain access to the electronic filing system of this Court.

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ADDENDUM

ADDENDUM ITEM 1.

With respect to two of the foregoing paragraphs, plaintiff counsel in *McGeary* (Civil Action No. 05-11319), *Besinger* (Civil Action No. 05-12368), and *Huskic* (Civil Action No. 05-12370) note that they do not agree and that instead they propose the following:

Paragraph I.b.1 ("Submission of Rule 23(g) applications).

"[A] clause should be added for filing of motions for designation of interim class counsel et al. and related organizational matters to be filed within ten days of the initial scheduling conference."

Paragraph II.b.2 ("Class Certification Discovery").

"[W]e do not agree that class discovery should be limited to 60 days and we will stay with our proposed 90, as we believe the 60 is unduly short for a litigated case."

ADDENDUM ITEM 2.

As of the time of filing, Gillette notes that it has **not** received assent to the provisions of the foregoing Joint Scheduling Report and Joint Discovery Plan from plaintiff's counsel in the following cases: *Corrales v. The Gillette Company*, (Civil Action No. 05-12332), *Adoure v. The Gillette Company*, (Civil Action No. 05-12336), *Falkner v. The Gillette Company*, Civil Action No. 05-12375. As to those cases, Gillette makes this submission as its own proposal.

ADDENDUM ITEM 3.

In *Smith v. The Gillette Company*, Civil Action No. 05-12335, Gillette notes that it has received, and is filing simultaneously herewith, "Plaintiff L. Dean Smith, Jr.'s Dismissal of Action Pursuant to F.R.C.P. 41(a)(1)."

Respectfully submitted,

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MDL Docket No. 1704**

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Civil Action No. 05-11177 DPW

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Kevin Windom v. The Gillette Company;
Civil Action No. 05-11207 DPW

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Tunon v. The Gillette Company
Civil Action No. 05-11208 DPW

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Kenessky v. The Gillette Company
Civil Action No. 05-11272 DPW

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Collin L. McGeary v. The Gillette Company
Civil Action No. 05-11319 DPW

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Bradley Saunders, et al. v. The Gillette Company
Civil Action No. 05-11425 DPW

/s/ David Pastor

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Civil Action No. 05-11455 DPW

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David Atkins v. The Gillette Company, a Delaware corporation
Civil Action No. 05-12192 DPW

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Mark Adkison v. The Gillette Company
Civil Action No. 05-12331 DPW

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Corrales v. The Gillette Company
Civil Action No. 05-12332 DPW

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David Lipper v. The Gillette Company
Civil Action No. 05-12333 DPW

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Matthew Marr v. The Gillette Company
Civil Action No. 05-12334 DPW

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L. Dean Smith, Jr. v. The Gillette Company
Civil Action No. 05-12335 DPW

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Kasem Adoure v. The Gillette Company
Civil Action No. 05-12336 DPW

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Michael Pruitt v. The Gillette Company
Civil Action No. 05-12365 DPW

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Luis Gonzalez v. The Gillette Company
Civil Action No. 05-12366 DPW

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Lisa Geis v. The Gillette Company
Case No. 05-12367 DPW

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Greg Besinger and David Zavala v. The Gillette Company
Civil Action No. 05-12368 DPW

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Evan Rosenthal v. The Gillette Company
Civil Action No. 05-12369 DPW

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Elvis Huskic v. The Gillette Company
Civil Action No. 05-12370 DPW

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Patrick Coleman v. Gillette Company, Inc.
Civil Action No. 05-12374 DPW

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Robert Falkner v. The Gillette Company
Civil Action No. 05-12375 DPW

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Steve McGlynn v. The Gillette Company
Civil Action No. 05-12376 DPW

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Moore v. The Gillette Company
Civil Action No. 05-12377 DPW

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Gorea v. The Gillette Company
Civil Action No. 05-12378 DPW

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Jackson v. The Gillette Company
Civil Action No. 05-12379 DPW

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